U.S. Army Corps of Engineers

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN)
FILE NUMBER: 2001-00813 and 2003-00388

## PROJECT LOCATION INFORMATION:

State: New York
County: Rensselaer

Center coordinates of site (latitude/longitude): lat:42-37-35.3280 lon:73-45-11.1600

Approximate size of area (parcel) reviewed, including uplands: 88.15 acres.

Name of nearest waterway: Hudson River

Name of watershed: HUDSON RIVER - POUGHKEEPSIE TO TROY

#### JURISDICTIONAL DETERMINATION

Completed: Desktop determination [ ] Date:

Site visit(s) [X] Date(s): June 6, 2001

## Jurisdictional Determination (JD):

[]	Preliminary JD - Based on available information, [] there appear to be (or) [] there appear to be no "waters of the
	United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable
	(Reference 33 CFR part 331).

- [X] Approved JD An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:
  - [X] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.09 acre.
  - [X] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 11.16 acres.
  - [X] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area 0.41 acre.
    [X] Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

## BASIS OF JURISDICTIONAL DETERMINATION:

### A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

[X] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

# B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

[X] (1) The presence of waters, which	are currently	used, or were u	ised in the past,	or may be suscept	tible to use in
interstate or foreign commerce,	including all	waters which ar	e subject to the	ebb and flow of the	he tide.

[] (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

- [] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - [] (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - [] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - [] (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- [ ] (4) Impoundments of waters otherwise defined as waters of the US.
- [X] (5) The presence of a tributary to a water identified in (1) (4) above.
- [ ] (6) The presence of territorial seas.
- [X] (7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: The project site is located on the Hudson River, approximately 9 miles south of the Troy Lock and Dam, and the Hudson River is considered to be a navigable waterway at the project site. The site contains 0.09 acre of wetlands that are tidally connected to the Hudson River. In addition, there are 8 principal wetland areas on the site that are part of a tributary system that discharges to the Hudson River of 11.16 acres. Wetland "C" of 0.41 acres on the subject property is considered isolated, as it is an intrastate water that does not have a connection to the Hudson River.

La	teral Extent of Jurisdiction: (Reference: 33 CFR	parts 328 and 329)
[X	Ordinary High Water Mark indicated by:	[X] High Tide Line indicated by:
-	[X] clear, natural line impressed on the bank	[ ] oil or scum line along shore objects
	[X] the presence of litter and debris	[] fine shell or debris deposits (foreshore)
	[X] changes in the character of soil	
		[X] physical markings/characteristics
	[] destruction of terrestrial vegetation	[] tidal gages
	[] shelving	[] other:
	[ ] other:	
ſΧ	Mean High Water Mark indicated by:	
	[] survey to available datum; [X] physical marking	gs; [] vegetation lines/changes in vegetation types.
[X	Wetland boundaries, as shown on the attached wetl	and delincation map and/or in a delineation report prepared by:
	sis For Not Asserting Jurisdiction:	
[]	The reviewed area eonsists entirely of uplands.	
[]	Unable to confirm the presence of waters in 33 CFF	R part 328(a)(1, 2, or 4-7).
	Headquarters declined to approve jurisdiction on the	
		that the following waters present on the site are not Waters of
124.	the United States:	that the following waters present on the site are not waters of
		-1 1
	[] Waste treatment systems, including treatment po	
	[ ] Artificially irrigated areas, which would revert to	
	[ ] Artificial lakes and ponds created by excavating	and/or diking dry land to collect and
	retain water and which are used exclusively for	such purposes as stock watering, irrigation, settling basins, or
	rice growing.	
	Artificial reflecting or swimming pools or other	small ornamental hodies of water created
	by excavating and/or diking dry land to retain w	
		dental to construction activity and pits excavated in dry land for
		ess and until the eonstruction or exeavation operation is
	abandoned and the resulting body of water meets 328.3(a).	s the definition of waters of the United States found at 33 CFR
	[X] Isolated, intrastate wetland with no nexus to int	erstate commerce in 0.41 acres of the site.
	[ ] Prior converted cropland, as determined by the N	Natural Resources Conservation Service. Explain rationale:
	[] Non-tidal drainage or irrigation ditches excavated	
	[ ] Other (explain):	2 of any tenant any man remonant
	[1] Onto (orderma)	
DATA REV	IEWED FOR JURISDICTIONAL DETERMINAT	ION (mark all that apply):
	Maps, plans, plots or plat submitted by or on behal	
	Data sheets prepared/submitted by or on behalf of the	
[A]		
		dated January 13, 2003, prepared by Epsilon Associates, Inc.
	[ ] This office does not concur with the delineation	report, dated , prepared by (company):
[]	Data sheets prepared by the Corps.	
[]	Corps' navigable waters' studies:	
ĪĪ	U.S. Geological Survey Hydrologic Atlas:	
	U.S. Geological Survey 7.5 Minute Topographic ma	ins:
	U.S. Geological Survey 7.5 Minute Historic quadran	
	U.S. Geological Survey 15 Minute Historic quadrang	
	USDA Natural Resources Conservation Service Soil	Survey:
[X]	National wetlands inventory maps:	
1.1	State/Local wetland inventory maps:	
	FEMA/FIRM maps (Map Name & Date):	
	100-year Floodplain Elevation is: (NGVD)	
	Aerial Photographs (Name & Date):	
	Other photographs (Datc):	
	Advanced Identification Wetland maps:	
۲Ī	Site visit/determination conducted on:	
	Applicable/supporting case law:	
	Other information (please specify):	
LJ	Other information (piease specify).	

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, eontiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

DISTRICT OFFICE:

NEW YORK DISTRICT (CENAN)

FILE NUMBER:

2004-00796

#### PROJECT LOCATION INFORMATION:

State:

New York

County:

Ulster

dunty. Oisie

Center coordinates of site (latitude/longitude): lat:42-2-11.0040 lon:73-56-35.0160

Approximate size of area (parcel) reviewed, including uplands: 1.35 acres.

Name of nearest waterway: Hudson River

Name of watershed:

HUDSON RIVER - POUGHKEEPSIE TO TROY

## JURISDICTIONAL DETERMINATION

Completed:

Desktop determination

[X] Da

Date: February 11, 2005

Site visit(s)

[X]

Date(s): Oetober 20, 2004

# Jurisdictional Determination (JD):

[X]	Preliminary JD - Based on available information, [X] there appear to be (or) [] there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
	Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:
	[ ] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:
	[] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:
	[ ] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. [ ] Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

### BASIS OF JURISDICTIONAL DETERMINATION:

## A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

[X] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

# B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

- [X] (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- [ ] (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
- [] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - [ ] (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - [] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - [ ] (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- [] (4) Impoundments of waters otherwise defined as waters of the US.
- [] (5) The presence of a tributary to a water identified in (1) (4) above.
- [] (6) The presence of territorial seas.
- [] (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: The project site is locate along the Hudson River, and includes a portion of the Hudson River shoreline.

	[] Ordinary High Water Mark indicated by: [] clear, natural line impressed on the bank [] the presence of litter and debris [] changes in the character of soil [] destruction of terrestrial vegetation [] shelving [] other:  [] Ordinary High Water Mark indicated by: [] High Tide Line indicated by: [] oil or seum line along shore objects [] fine shell or debris deposits (foreshore) [] physical markings/characteristics [] tidal gages [] other:
	[X] Mean High Water Mark indicated by: [X] survey to available datum; [] physical markings; [] vegetation lines/changes in vegetation types.
	[ ] Wetland boundaries, as shown on the attached wetland delineation map and/or in a delincation report prepared by:
	Basis For Not Asserting Jurisdiction:  [] The reviewed area consists entirely of uplands.  [] Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  [] Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  [] The Corps has made a ease-specifie determination that the following waters present on the site are not Waters of the United States:  [] Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  [] Artificially irrigated areas, which would revert to upland if the irrigation eeased.  [] Artificial lakes and ponds ereated by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  [] Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.  [] Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  [] Isolated, intrastate wetland with no nexus to interstate commerce.  [] Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:  [] Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:  [] Other (explain):
DATA	REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):  [X] Maps, plans, plots or plat submitted by or on behalf of the applicant. Fraser  [] Data sheets prepared/submitted by or on behalf of the applicant.  [] This office concurs with the delineation report, dated, prepared by (company):  [] This office does not concur with the delineation report, dated, prepared by (company):  [] Data sheets prepared by the Corps.  [] Corps' navigable waters' studies:  [] U.S. Geological Survey Hydrologic Atlas:  [X] U.S. Geological Survey 7.5 Minute Topographic maps:Saugerties  [] U.S. Geological Survey 7.5 Minute Historic quadrangles:  [] U.S. Geological Survey 15 Minute Historic quadrangles:  [] USDA Natural Resources Conservation Service Soil Survey:  [] National wetlands inventory maps:  [] State/Local wetland inventory maps:  [] FEMA/FIRM maps (Map Name & Date):  [] 100-year Floodplain Elevation is: (NGVD)  [X] Aerial Photographs (Name & Date):  [] Other photographs (Date):  [] Advanced Identification Wetland maps:  [X] Site visit/determination conducted on: October 20, 2004  [] Applicable/supporting case law:  [] Other information (please specify):

Wetlands are identified and delincated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** NEW YORK DISTRICT (CENAN)

FILE NUMBER: 2004-00866

#### PROJECT LOCATION INFORMATION:

State: New York
County: Albany
Center eoordinates of site (latitude/longitude):

Approximate size of area (pareel) reviewed, including uplands: 41.59 acres. Name of nearest waterway: Wetland and Unnamed Tributary of Black Creek

Name of watershed: HUDSON RIVER - NORTH OF TROY

# JURISDICTIONAL DETERMINATION

Completed: Desktop determination [ ] Date:

Site visit(s) [X] Date: September 23, 2004

#### Jurisdictional Determination (JD):

[] Preliminary JD - Based on available information, [] there appear to be (or) [] there appe	ar to be no "waters of the
United States" and/or "navigable waters of the United States" on the project site. A	A preliminary JD is not appealable
(Reference 33 CFR part 331).	,

- [X] Approved JD An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:
  - [] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidanee) within the reviewed area. Approximate size of jurisdictional area:
  - [X] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 8.99 acres.
  - [X] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

    [X] Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

#### BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- [ ] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

## B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

- [ ] (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the cbb and flow of the tide.
- [ ] (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.
- [] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - [] (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - $[\ ]$  (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - [] (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- [ ] (4) Impoundments of waters otherwise defined as waters of the US.
- [X] (5) The presence of a tributary to a water identified in (1) (4) above.
- [ ] (6) The presence of territorial seas.
- [X] (7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:

The wetlands and unnamed streams on the site are part of a tributary system to Black Creek, which drains into the Bozen Kill and ultimately the Hudson River, a navigable waterbody.

	Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)			
	[X] Ordinary High Water Mark indicated by: [ ] High Tide Line indicated by:			
	[X] clear, natural line impressed on the bank [] oil or scum line along shore objects			
	[X] the presence of litter and debris [] fine shell or debris deposits (foreshore)			
	[X] changes in the character of soil [ ] physical markings/characteristics			
	[X] destruction of terrestrial vegetation [] tidal gages			
	[X] shelving [ ] other:			
	[ ] other:			
	] Mean High Water Mark indicated by: [] survey to available datum; [] physical markings; [] vegetation lines/changes in vegetation types.			
	X] Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: Ingalls and Associates.			
	Basis For Not Asserting Jurisdiction:			
	The reviewed area consists entirely of uplands.			
	Unable to eonfirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).			
	] Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).			
	X] The Corps has made a case-specific determination that the following waters present on the site are not Waters of			
	the United States:			
	[] Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.			
	[] Artificially irrigated areas, which would revert to upland if the irrigation ceased.			
	[] Artificial lakes and ponds created by excavating and/or diking dry land to eollect and			
	retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or			
	rice growing.			
	[] Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.			
	Water-filled depressions created in dry land incidental to construction activity and pits exeavated in dry land for			
	the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is			
	abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR			
	328.3(a).			
	[X] Isolated, intrastate wetland with no nexus to interstate commerce.			
	[ ] Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:			
	[] Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:			
	[ ] Other (explain):			
DΔ	TA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):			
	X] Maps, plans, plots or plat submitted by or on behalf of the applicant.			
	X] Data sheets prepared/submitted by or on behalf of the applicant.			
'	[X] This office concurs with the delineation report, dated June 4, 2004, prepared by Ingalls & Associates			
	[] This office does not concur with the delineation report, dated , prepared by (company):			
[	Data sheets prepared by the Corps.			
[	[ Corps' navigable waters' studies:			
	] U.S. Geological Survey Hydrologic Atlas:			
	X] U.S. Geological Survey 7.5 Minute Topographic maps:			
	U.S. Geological Survey 7.5 Minute Historic quadrangles:			
	U.S. Geological Survey 15 Minute Historic quadrangles:			
	X] USDA Natural Resources Conservation Service Soil Survey:			
	X] National wetlands inventory maps:			
	X] State/Local wetland inventory maps:			
	] FEMA/FIRM maps (Map Name & Date): ] 100-year Floodplain Elevation is: (NGVD)			
	Aerial Photographs (Name & Date):			
	X] Other photographs (Date): September 23, 2004			
	Advanced Identification Wetland maps:			
	X] Site visit/determination conducted on: September 23, 2004			
	Applicable/supporting case law:			
	Other information (please specify):			

Wetlands are identified and delincated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydrie soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN) FILE NUMBER: 2005-00343 PROJECT LOCATION INFORMATION: State: New York County: Saratoga Center coordinates of site (latitude/longitude): lat:42-55-1.9920 lon:73-57-33.0120 Approximate size of area (parcel) reviewed, including uplands: 132.37 acres. Name of nearest waterway: Unnamed Tributary to Alplaus Kill Name of watershed: MOHAWK RIVER JURISDICTIONAL DETERMINATION Desktop determination Completed: [] Date: XSite visit(s) Date(s): April 12, 2005, and February 3, 2006 Jurisdictional Determination (JD): [ ] Preliminary JD - Based on available information, [ ] there appear to be (or) [ ] there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). [X] Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Cheek all that apply: [ ] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: [X] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 132.37 acres [X] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. [X] Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
- [] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

# B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

- [] (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- [ ] (2) The presence of interstate waters including interstate wetlands.
- [] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - [ ] (i) which are or eould be used by interstate or foreign travelers for recreational or other purposes.
  - [ ] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - [] (iii) which are or could be used for industrial purposes by industries in interstate eommerce.
- [ ] (4) Impoundments of waters otherwise defined as waters of the US.
- [X] (5) The presence of a tributary to a water identified in (1) (4) above.
- [] (6) The presence of territorial seas.
- [X] (7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: The site includes portions of the Alplaus Kill, a tributary to the Mohawk River, which is a navigable waterway. The wetlands on the site are contiguous with, and adjacent to either the Alplaus Kill or various unnamed tributaries to the Kill that are also located on the site.

Lateral Extent of Jurisdiction: (Reference: 33 CFR [X] Ordinary High Water Mark indicated by:  [X] clear, natural line impressed on the bank  [] the presence of litter and debris  [X] changes in the character of soil  [X] destruction of terrestrial vegetation  [] shelving  [X] other: a defined bed and banks	parts 328 and 329) [] High Tide Line indicated by: [] oil or scum line along shore objects [] fine shell or debris deposits (foreshore) [] physical markings/characteristics [] tidal gages [] other:
[] Mean High Water Mark indicated by: [] survey to available datum; [] physical marking	gs; [] vegetation lines/changes in vegetation types.
[X] Wetland boundaries, as shown on the attached wet Ingalls and Associates, LLP	tland delineation map and/or in a delineation report prepared by:
the United States:  [] Waste treatment systems, including treatment por [] Artificially irrigated areas, which would revert to [] Artificial lakes and ponds created by excavating retain water and which are used exclusively for rice growing.  [] Artificial reflecting or swimming pools or other by excavating and/or diking dry land to retain vorthe [] Water-filled depressions created in dry land incit the purpose of obtaining fill, sand, or gravel unleabandoned and the resulting body of water meet 328.3(a).  [X] Isolated, intrastate wetland with no nexus to in [] Prior converted cropland, as determined by the [] Non-tidal drainage or irrigation ditches excavate [] Other (explain):	that the following waters present on the site are not Waters of conds or lagoons, pursuant to 33 CFR part 328.3. It to upland if the irrigation eeased. It and/or diking dry land to collect and such purposes as stock watering, irrigation, settling basins, or small ornamental bodies of water created vater for primarily aesthetic reasons. Idental to construction activity and pits excavated in dry land for less and until the construction or excavation operation is its the definition of waters of the United States found at 33 CFR terstate commerce.  Natural Resources Conservation Service. Explain rationale: ed on dry land. Explain rationale:
[X] Maps, plans, plots or plat submitted by or on behal [X] Data sheets prepared/submitted by or on behalf of [] This office concurs with the delineation report, [] This office does not concur with the delineation [] Data sheets prepared by the Corps. [] Corps' navigable waters' studies: [] U.S. Geological Survey Hydrologic Atlas: [X] U.S. Geological Survey 7.5 Minute Topographic n [] U.S. Geological Survey 7.5 Minute Historic quadra [X] U.S. Geological Survey 15 Minute Historic quadra [X] U.S. Geological Survey 15 Minute Historic quadra [X] USDA Natural Resources Conservation Service So [] National wetlands inventory maps: [] State/Local wetland inventory maps: [X] FEMA/FIRM maps (Map Name & Date): Saratoga [] 100-year Floodplain Elevation is: (NGVD) [] Aerial Photographs (Name & Date): [X] Other photographs (Date): April 12, 2005, and Feb [] Advanced Identification Wetland maps: [X] Site visit/determination conducted on: April 12, 20 [] Applicable/supporting case law: [] Other information (please specify):	If of the applicant. the applicant. dated , prepared by (company): report, dated , prepared by (company):  naps: Burnt Hills, NY ngles: nngles: Schenectady, NY dated 1898, 1930 and 1949 il Survey: Saratoga County, NY  a County, NY, Map No. 36091CO537, dated 16 Aug 95  naps: Burnt Hills, NY ngles: Schenectady, NY dated 1898, 1930 and 1949 il Survey: Saratoga County, NY

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers DISTRICT OFFICE: NEW YORK DISTRICT (CENAN) FILE NUMBER: 2005-00453 PROJECT LOCATION INFORMATION: State: New York County: Rensselaer Center coordinates of site (latitude/longitude): lat:42-37-35.3280 lon:73-45-11.1600 Approximate size of area (parcel) reviewed, including uplands: 220.8 acres. Name of nearest waterway: Hudson River Name of watershed: HUDSON RIVER - POUGHKEEPSIE TO TROY JURISDICTIONAL DETERMINATION Completed: Desktop determination Date: [] Site visit(s) [X]Date(s): November 26, 2002 Jurisdictional Determination (JD): [ ] Preliminary JD - Based on available information, [ ] there appear to be (or) [ ] there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). [X] Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: [ ] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: [X] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 36.98 aeres. [ ] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: A. Waters defined under 33 CFR part 329 as "uavigable waters of the United States": [] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": [X] (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. [ ] (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

- [] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - [] (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - [] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - [] (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- [ ] (4) Impoundments of waters otherwise defined as waters of the US.
- [X] (5) The presence of a tributary to a water identified in (1) (4) above.
- [] (6) The presence of territorial seas.
- [X] (7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(I) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5) or B(3) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(3) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: The site contains 61 principal wetland areas, of which all are part of tributary systems that discharge into the Hudson River.

	Lateral Extent of Jurisdiction: (Reference: 33 CFR	parts 328 and 329)	
	[X] Ordinary High Water Mark indicated by:	[ ] High Tide Line indicated by:	
	[X] clear, natural line impressed on the bank	[] oil or scum line along shore objects	
	[X] the presence of litter and debris	[ ] fine shell or debris deposits (foreshore)	
	[X] changes in the character of soil	[] physical markings/characteristics	
	[ ] destruction of terrestrial vegetation	[] tidal gages	
	[ ] shelving	[ ] other:	
	[ ] other:		
	[] Mean High Water Mark indicated by: [] survey to available datum; [] physical marking	s. [] vegetation lines/changes in vegetation types	
	[X] Wetland boundaries, as shown on the attached wet Epsilon Associates, Inc.	tland delineation map and/or in a delineation report prepared by:	
	Basis For Not Asserting Jurisdiction:		
	[] The reviewed area consists entirely of uplands.		
	[] Unable to confirm the presence of waters in 33 CFI		
	[] Headquarters declined to approve jurisdiction on the		
	[] The Corps has made a case-specific determination the United States:	hat the following waters present on the site are not Waters of	
	[] Waste treatment systems, including treatment po		
	[] Artificially irrigated areas, which would revert to		
	[] Artificial lakes and ponds created by exeavating		
	•	such purposes as stock watering, irrigation, settling basins, or	
	rice growing.	small armamental hadies of water created	
	<ul> <li>Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.</li> </ul>		
		dental to construction activity and pits excavated in dry land for	
	the purpose of obtaining fill, sand, or gravel unl	ess and until the construction or excavation operation is s the definition of waters of the United States found at 33 CFR	
	328.3(a).		
	[ ] Isolated, intrastate wetland with no nexus to inte		
		Natural Resources Conservation Service. Explain rationale:	
	[] Non-tidal drainage or irrigation ditches exeavate	d on dry land. Explain rationale:	
	[] Other (explain):		
DATA	REVIEWED FOR JURISDICTIONAL DETERMINAT		
	[X] Maps, plans, plots or plat submitted by or on behal	• •	
	[X] Data sheets prepared/submitted by or on behalf of		
		ated November 5, 2002, with drawings last revised on January 13,	
	2003, prepared by (company): Epsilon Associate		
	[] This office does not concur with the delineation	report, dated , prepared by (company):	
	[] Data sheets prepared by the Corps.		
	[] Corps' navigable waters' studies:		
	[] U.S. Geological Survey Hydrologic Atlas:		
	[] U.S. Geological Survey 7.5 Minute Topographie ma [] U.S. Geological Survey 7.5 Minute Historic quadrar		
	[] U.S. Geological Survey 1.5 Minute Historic quadran		
	[] USDA Natural Resources Conservation Service Soil		
	[] National wetlands inventory maps:	Survey.	
	State/Local wetland inventory maps:		
	[] FEMA/FIRM maps (Map Name & Date):		
	[] 100-year Floodplain Elevation is: (NGVD)		
	[] Aerial Photographs (Name & Date):		
	Other photographs (Date):		
	[] Advanced Identification Wetland maps:		
	Site visit/determination conducted on:		
	[] Applicable/supporting case law:		
	[] Other information (please specify):		

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers NEW YORK DISTRICT (CENAN) **DISTRICT OFFICE:** FILE NUMBER: 2005-00633 PROJECT LOCATION INFORMATION: New York State: Franklin County: Center coordinates of site (latitude/longitude): lat:44-40-14.9520 lon:74-32-29.9400 Approximate size of area (parcel) reviewed, including uplands: 1.00 acres. Name of nearest waterway: St. Regis River Name of watershed: ST. LAWRENCE RIVER JURISDICTIONAL DETERMINATION Completed: Desktop determination [] Site visit(s) [X] Date(s): September 12, 2005 Jurisdictional Determination (JD): [X] Preliminary JD - Based on available information, [X] there appear to be (or) [] there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: [ ] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: [ ] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: [ ] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: A. Waters defined under 33 CFR part 329 as "navigable waters of the United States": [X] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": [X] (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. [ ] (2) The presence of interstate waters including interstate wetlands<sup>1</sup>. [] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudīlats,

- sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - [] (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - [] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - [ ] (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- [] (4) Impoundments of waters otherwise defined as waters of the US.
- [] (5) The presence of a tributary to a water identified in (1) (4) above.
- [] (6) The presence of territorial seas.
- [X] (7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rational eused to make adjacency determination: The waters within the wetlands flow into the St. Regis River which is considered a navigable waterway because of its historical use for interstate commerce. The St. Regis River flows into the St. Lawrence River, which is also a navigable waterway.

[X] Ordinary High Water Mark indicated by: [X] clear, natural line impressed on the bank [X] the presence of litter and debris [X] changes in the character of soil [] destruction of terrestrial vegetation [] shelving [] other:	[ ] High Tide Line indicated by:  [ ] oil or scum line along shore objects  [ ] fine shell or debris deposits (foreshore)  [ ] physical markings/characteristics  [ ] tidal gages  [ ] other:
[] Mean High Water Mark indicated by: [] survey to available datum; [] physical markin	ngs; [] vegetation lines/changes in vegetation types.
[X] Wetland boundaries, as shown on the attached wetland of Waverly	and delineation map and/or in a delineation report prepared by: Town
the United States:  [ ] Waste treatment systems, including treatment p [ ] Artificially irrigated areas, which would revert [ ] Artificial lakes and ponds created by excavatin	he basis of 33 CFR part 328.3(a)(3). that the following waters present on the site are not Waters of ponds or lagoons, pursuant to 33 CFR part 328.3. to upland if the irrigation ceased.
rice growing.  [] Artificial reflecting or swimming pools or othe by excavating and/or diking dry land to retain [] Water-filled depressions created in dry land into the purpose of obtaining fill, sand, or gravel ur abandoned and the resulting body of water mee 328.3(a).  [] Isolated, intrastate wetland with no nexus to into	or small ornamental bodies of water created water for primarily aesthetic reasons. Evidental to construction activity and pits excavated in dry land for piless and until the construction or exeavation operation is east the definition of waters of the United States found at 33 CFR terstate commerce.  Natural Resources Conservation Service. Explain rationale:
REVIEWED FOR JURISDICTIONAL DETERMINA [X] Maps, plans, plots or plat submitted by or on behalf of	alf of the applicant. the applieant.
[ ] This office eoneurs with the delineation report,     [ ] This office does not concur with the delineation [ ] Data sheets prepared by the Corps. [ ] Corps' navigable waters' studies: [ ] U.S. Geological Survey Hydrologic Atlas: [ X] U.S. Geological Survey 7.5 Minute Topographic of the constant of	maps:Saint Regis Falls angles: ngles: il Survey:

DATA

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. hy man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers DISTRICT OFFICE: NEW YORK DISTRICT (CENAN) FILE NUMBER: 2005-00722 PROJECT LOCATION INFORMATION: New York State: Westchester County: Center eoordinates of site (latitude/longitude): lat:41-9-25.3080 lon:73-49-4.9440 Approximate size of area (parcel) reviewed, including uplands: 0.88 acres. Name of nearest waterway: Pocantico River Name of watershed: Hudson River JURISDICTIONAL DETERMINATION Completed: Desktop determination Date: October 20, 2005 [X]Site visit(s) [] Date(s): Jurisdictional Determination (JD): [X] Preliminary JD - Based on available information, [X] there appear to be (or) [] there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). [] Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: [ ] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: [] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: [ ] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. [] Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: A. Waters defined under 33 CFR part 329 as "navigable waters of the United States": [ ] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": [ ] (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. [] (2) The presence of interstate waters including interstate wetlands. [] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats,

- sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - [] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - [ ] (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- [] (4) Impoundments of waters otherwise defined as waters of the US.
- [x] (5) The presence of a tributary to a water identified in (1) (4) above.
- [ ] (6) The presence of territorial seas.
- [x] (7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Pocantico River is a tributary of the Hudson River, which is subject to the ebb and flow of the tide and considered to be navigable.

[x] Ordinary High Water Mark indicated by: [x] clear, natural line impressed on the bar [x] the presence of litter and debris [] changes in the character of soil [] destruction of terrestrial vegetation [] shelving	[] High Tide Line indicated by:
[] other:  [] Mean High Water Mark indicated by:	markings; [] vegetation lines/changes in vegetation types.
	ned wetland delineation map and/or in a delineation report prepared by: New
the United States:  [] Waste treatment systems, including treat  [] Artificially irrigated areas, which would  [] Artificial lakes and ponds created by extending water and which are used exclusive rice growing.  [] Artificial reflecting or swimming pools by excavating and/or diking dry land to purpose of obtaining fill, sand, or gabandoned and the resulting body of was 328.3(a).  [] Isolated, intrastate wetland with no nextending fills and to personal contents.	in 33 CFR part 328(a)(1, 2, or 4-7). ion on the basis of 33 CFR part 328.3(a)(3). initiation that the following waters present on the site are not Waters of attent ponds or lagoons, pursuant to 33 CFR part 328.3. Id revert to upland if the irrigation ceased. In reversion to collect and in reversion purposes as stock watering, irrigation, settling basins, or In or other small ornamental bodies of water created or retain water for primarily aesthetic reasons. In and incidental to construction activity and pits excavated in dry land for travel unless and until the construction or excavation operation is after meets the definition of waters of the United States found at 33 CFR us to interstate commerce. If the Natural Resources Conservation Service, Explain rationale:
[x] Maps, plans, plots or plat submitted by or [] Data sheets prepared/submitted by or on be [] This office concurs with the delineation [] This office does not concur with the de [] Data sheets prepared by the Corps. [] Corps' navigable waters' studies: [] U.S. Geological Survey Hydrologic Atlas: [] U.S. Geological Survey 7.5 Minute Topogr [] U.S. Geological Survey 7.5 Minute Histori [] U.S. Geological Survey 15 Minute Histori [] U.S. Geological Survey 15 Minute Histori [] USDA Natural Resources Conservation Ser [] National wetlands inventory maps: [] State/Local wetland inventory maps: [] FEMA/FIRM maps (Map Name & Date): [] 100-year Floodplain Elevation is: (NG' [] Aerial Photographs (Name & Date): [x] Other photographs (Date): Undated [] Advanced Identification Wetland maps: [] Site visit/determination conducted on: [] Applicable/supporting case law: [] Other information (please specify):	on behalf of the applicant. chalf of the applicant. report, dated , prepared by (company): lineation report, dated , prepared by (company): raphic maps: c quadrangles: c quadrangles: cryice Soil Survey:

<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN) FILE NUMBER: 2005-00788 PROJECT LOCATION INFORMATION: State: New York County: Orange Center coordinates of site (latitude/longitude): lat:41-33-47.2680 lon:74-0-38.6640 Approximate size of area (parcel) reviewed, including uplands: 5.917 acres. Name of nearest waterway: Unnamed Tributary to the Hudson River Name of watershed: HUDSON RIVER - YONKERS TO POUGHKEEPSIE JURISDICTIONAL DETERMINATION Completed: Desktop determination [] Date: Site visit(s) [X]Date(s): October 5, 2005 Jurisdictional Determination (JD): [ ] Preliminary JD - Based on available information, [ ] there appear to be (or) [ ] there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). [X] Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: [ ] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: [X] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.13 acres. [ ] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. [ ] Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: A. Waters defined under 33 CFR part 329 as "navigable waters of the United States": [ ] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": [1 (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. [ ] (2) The presence of interstate waters including interstate wetlands. [ ] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply): [] (i) which are or could be used by interstate or foreign travelers for recreational or other purposes. [ ] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

[X] (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or

[] (iii) which are or could be used for industrial purposes by industries in interstate commerce.

[] (4) Impoundments of waters otherwise defined as waters of the US. [X] (5) The presence of a tributary to a water identified in (1) - (4) above.

[] (6) The presence of territorial seas.

wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Wetlands include unnamed tributary to the Hudson River, which is navigable.

	of Jurisdiction: (Reference: 33 CFR	
[X] Ordinary Hi	igh Water Mark indicated by:	[ ] High Tide Line indicated by:
[X] clear, na	atural line impressed on the bank	[] oil or scum line along shore objects
[X] the prese	ence of litter and debris	[] fine shell or debris deposits (foreshore)
	in the character of soil	[] physical markings/characteristics
	ion of terrestrial vegetation	[ ] tidal gages
[] shelving	ion of terresular vegetation	[] other:
[] other:		[ ] other.
[ ] omer:		
f 1 Manu III ak 1	Wasan Maria Indiana di Isaa	
	Water Mark indicated by:	
[ ] survey to	available datum; [ ] physical marking	s; [] vegetation lines/changes in vegetation types.
[X] Wetland bo	undaries, as shown on the attached wet	land delineation map and/or in a delineation report prepared by:
Basis For Nat A	Asserting Jurisdiction:	
	d area consists entirely of uplands.	
	onfirm the presence of waters in 33 CFI	R part 378(a)(1 - 7 or 4-7)
	s declined to approve jurisdiction on the	
		that the following waters present on the site are not Waters of
the United St		hat the following waters present on the site are not waters of
		and an large and another to 22 CER most 200.2
		ands or lagoons, pursuant to 33 CFR part 328.3.
	ly irrigated areas, which would revert t	
	lakes and ponds created by excavating	
		such purposes as stock watering, irrigation, settling basins, or
rice grow		
		small ornamental bodies of water ereated
•	ating and/or diking dry land to retain w	•
		dental to construction activity and pits excavated in dry land for
		css and until the construction or exeavation operation is
abandone	d and the resulting body of water meet	s the definition of waters of the United States found at 33 CFR
328.3(a).		
[ ] Isolated, i	intrastate wetland with no nexus to inte	erstate commerce.
[] Prior cons	verted cropland, as determined by the	Natural Resources Conservation Service. Explain rationale:
[] Non-tidal	drainage or irrigation ditches excavate	d on dry land. Explain rationale:
[] Other (ex	plain):	
	-	
	TO DE MUDICIPIONAL PRIEDING	MANUFACTURE OF THE PARTY OF THE
	D FOR JURISDICTIONAL DETERM	• • • • • • • • • • • • • • • • • • • •
	, plots or plat submitted by or on behal	
	prepared/submitted by or on behalf of	
[ ] This offic	ce concurs with the delineation report, of	dated, prepared by (company):
[] This offic	ee does not coneur with the delineation	report, dated , prepared by (company):
	prepared by the Corps.	
[] Corps' naviga	able waters' studies:	
[] U.S. Geologi	ical Survey Hydrologic Atlas:	
[X] U.S. Geolog	gical Survey 7.5 Minute Topographic m	aps: Newburgh, NY
[] U.S. Geologic	cal Survey 7.5 Minute Historic quadrar	ngles:
	cal Survey 15 Minute Historic quadran	
	ral Resources Conservation Service Soi	
	tlands inventory maps: Newburgh, NY	,·,-, · · ·
	wetland inventory maps: Newburgh, N	Y
	I maps (Map Name & Date):	-
	odplain Elevation is: (NGVD)	
	graphs (Name & Date):	
[X] Other photog		
	entification Wetland maps:	005
	termination conducted on: October 5, 2	VVJ
	apporting case law:	
[] Other inform	ation (please specify):	

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** NEW YORK DISTRICT (CENAN)

**FILE NUMBER:** 2006-00136

# PROJECT LOCATION INFORMATION:

State: New York County: Warren

Center coordinates of site (latitude/longitude): lat:43-44-48.9840 lon:73-40-19.9920

Approximate size of area (pareel) reviewed, including uplands: I aeres.

Name of nearest waterway: Unnamed Tributary

Name of watershed: HUDSON RIVER - NORTH OF TROY

#### JURISDICTIONAL DETERMINATION

**Completed:** Desktop determination [ ] Date:

Site visit(s) [X] Date(s): February 9, 2006

#### Jurisdictional Determination (JD):

[X	[7] Preliminary JD - Based on available information, [X] there appear to be (or) [ ] there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
[]	Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:
	[] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:
	[] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:
	[] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. [] Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

# BASIS OF JURISDICTIONAL DETERMINATION:

# A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

[ ] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

# B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

$[\ ]$	(1)	The	present	ce of v	vaters,	which	n are c	urrently	used,	or were	used in	the pas	st, or m	ay be	susce	ptible to	use in
		inter	state or	foreig	gn con	merce	e, inclu	ıding al	l water	s which	are sub	ject to	the ebb	and fl	ow o	f the tide	e.
[]	(2)	The	presend	ce of i	ntersta	ite wat	ers in	eluding	intersta	ite wetla	ınds <sup>1</sup> .						
[]	(3)	The	present	ee of o	other w	aters.	such a	s intrast	ate lak	es, river	s, stream	ns (incl	uding i	ntermi	ttent	streams)	, mudfl

- (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - [] (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - [] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - [] (iii) which are or could be used for industrial purposes by industries in interstate eommerce.
- [ ] (4) Impoundments of waters otherwise defined as waters of the US.
- [X] (5) The presence of a tributary to a water identified in (1) (4) above.
- [] (6) The presence of territorial seas.
- [] (7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: The subject waterway is a tributary to Brandt Lake, a Federally navigable waterbody.

La	teral Extent of Jurisdiction: (Reference: 33 CFR I	parts 328 and 329)
[X	Ordinary High Water Mark indicated by:	[] High Tide Line indicated by:
	[X] clear, natural line impressed on the bank	[] oil or scum line along shore objects
	[] the presence of litter and debris	[] fine shell or debris deposits (foreshore)
	[] changes in the character of soil	[] physical markings/characteristics
	[] destruction of terrestrial vegetation	[] tidal gages
	[] shelving	[] other:
	[] other:	[ ] other.
	[ ] other.	
[]	Mean High Water Mark indicated by:	
	[] survey to available datum; [] physical markings	; [] vegetation lines/changes in vegetation types.
[]	Wetland boundaries, as shown on the attached wetla	nd delineation map and/or in a delineation report prepared by:
Ва	sis For Not Asserting Jurisdiction:	
	The reviewed area consists entirely of uplands.	
	Unable to confirm the presence of waters in 33 CFR	part 328(a)(1, 2, or 4-7).
	Headquarters declined to approve jurisdiction on the	
		at the following waters present on the site are not Waters of
LJ	the United States:	and the total waters precent on the one are not waters of
	[] Waste treatment systems, including treatment por	nds or lagoons, nursuant to 33 CFR part 328 3
	[] Artificially irrigated areas, which would revert to	
	Artificial lakes and ponds created by exeavating	
		uch purposes as stock watering, irrigation, settling basins, or
	rice growing.	den purposes as stock watering, irrigation, setting basins, or
		small amamantal hadios of water areated
	[ ] Artificial reflecting or swimming pools or other s	
	by excavating and/or diking dry land to retain wa	
		ental to construction activity and pits excavated in dry land for
		ss and until the construction or exeavation operation is
	328.3(a).	the definition of waters of the United States found at 33 CFR
	[] Isolated, intrastate wetland with no nexus to inter	state commerce.
		atural Resources Conservation Service. Explain rationale:
	[ ] Non-tidal drainage or irrigation ditches excavated	on dry land. Explain rationals:
	[] Other (explain):	on ary fand. Explain fationale.
	[ ] Other (explain).	
	IEWED FOR JURISDICTIONAL DETERMINATI	
	Maps, plans, plots or plat submitted by or on behalf	
	Data sheets prepared/submitted by or on behalf of th	• •
	[] This office coneurs with the delineation report, date	
	[] This office does not concur with the delineation r	report, dated , prepared by (company):
	Data sheets prepared by the Corps.	
	Corps' navigable waters' studies:	
[]	U.S. Geological Survey Hydrologic Atlas:	
[X]	U.S. Geological Survey 7.5 Minute Topographic ma	ips:
[ ]	U.S. Geological Survey 7.5 Minute Historic quadrang	gles:
[]	U.S. Geological Survey 15 Minute Historie quadrang	les:
fi	USDA Natural Resources Conservation Service Soil	Survey:
	National wetlands inventory maps:	·
	State/Local wetland inventory maps:	•
	FEMA/FIRM maps (Map Name & Date):	
	100-year Floodplain Elevation is: (NGVD)	
	Aerial Photographs (Name & Date):	
	Other photographs (Date):	
	Advanced Identification Wetland maps:	
	Site visit/determination conducted on: see above	
	Applicable/supporting ease law:	
[ ]	Other information (please specify):	

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.